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REMARKS

The Final Office Action mailed May 8, 2002, has been received and reviewed. Claims 19 through 36 stand finally rejected. However, Applicants have herein cancelled claims 21 through 36 without prejudice or disclaimer, and Applicants respectfully request reconsideration of the present application in light of the amendments and remarks set forth herein.

35 U.S.C. § 112 Rejection

Claims 21 through 36 are rejected in the Final Office Action under 35 U.S.C. § 112. Applicants note, however, that because claims 21 through 36 are canceled herein, claims 21 through 36 are no longer pending in the present application. Therefore, Applicants respectfully submit that the rejection of claims 21 through 36 under Section 112 should be withdrawn.

35 U.S.C. § 103(a) Rejections

Each of pending claims 19 through 36 stands finally rejected under 35 U.S.C. § 103(a). Applicants note, however, that claims 21 through 36 are canceled herein, and, as a result, Applicants respectfully submit that the rejections of claims 21 through 36 under Section 103(a) should be withdrawn. Moreover, due to the cancellation of claims 21 through 36, Applicants address the rejections under Section 103(a) contained in the Final Office Action only as those rejections pertain to pending claims 19 and 20.

Claims 19 and 20 are rejected in the Final Office Action under Section 103(a) as being unpatentable over two different combinations of references. A rejection under Section 103(a), however, is improper and will be overturned unless the cited references establish the *prima facie* obviousness of the rejected claims. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). In this case, applicants respectfully submit, that neither combination of references cited in the Final Office Action provides evidence sufficient to properly establish the *prima facie* obviousness of claim 19 or claim 20. Therefore, Applicants respectfully request that the rejections of claims 19 and 20 under Section 103(a) be withdrawn.

As is set forth in M.P.E.P. 706.02(j), a *prima facie* case of obviousness under Section 103 can not be established unless three criteria are met:

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First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In this case, Applicants respectfully submit that the combined teachings of the references cited in the Final Office Action fail to teach or suggest all of the limitations recited either in claim 19 or in claim 20. Applicants respectfully submit, therefore, that the references cited in the Final Office Action can not properly establish the *prima facie* obviousness of any of the rejected claims.

Claims 19 and 20 are first rejected under Section 103(a) as being unpatentable over Pozzi et al. (U.S. Patent 5,629,017) in view of Benton et al. (U.S. Patent 4,876,094) and Oshlack et al. (U.S. Patent 5,356,467). Claim 19 recites a dosage form that includes a core comprising a drug formulation, an interior membrane formed around the core and comprising 35 wt% to 70 wt% of a polymer possessing a lipophilic-attracting property, 25 wt% to 65 wt% of a flux enhancer, and 0 wt% to 10 wt% of a surfactant, and an exterior membrane formed around the interior membrane and comprising 35 wt% to 70 wt% of a polymer permeable to the passage of an aqueous fluid, 10 wt% to 40 wt% of a plasticizer, 20 wt% to 35 wt% of a peptide, and 0 wt % to 10 wt% of a surfactant. Because claim 20 depends from claim 19, claim 20 also incorporates each of the limitations recited in claim 19. However, Applicants respectfully submit that the combined teachings of Pozzi et al., Benton et al., and Oshlack et al. fail to teach or suggest a dosage form having interior and exterior membranes as recited in the rejected claims. In particular, Applicants respectfully submit that combined teachings of Pozzi et al., Benton et al., and Oshlack et al. fail to teach or suggest dosage forms having interior and exterior membranes that (1) incorporate each of the components specified in claim 19 and (2) are formed by combining the specified components at the weight percentage ranges designated in claim 19.

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Therefore, Applicants respectfully submit that the combined teachings of Pozzi et al., Benton et al., and Oshlack et al. fail to establish the *prima facie* obviousness of claims 19 and 20, and Applicants respectfully request that the rejection of claims 19 and 20 as unpatentable over the combination of Pozzi et al., Benton et al., and Oshlack et al. be withdrawn.

In the Final Office Action, claims 19 and 20 are also rejected under Section 103(a) as being unpatentable over Zeitoun et al. (U.S. Patent 4,432,966) in view of Seminoff et al. (U.S. Patent 5,126,146), Staniforth (U.S. Patent 5,504,614), and Oshalack et al. (U.S. Patent 5,356,467). However, Applicants respectfully submit that the combined teachings of Zeitoun et al., Seminoff et al., Staniforth, and Oshalack et al. also fail to teach or suggest a dosage form having interior and exterior membranes that incorporate the components specified in claim 19 and are formed by combining the specified components at the weight percentages designated in claim 19. Applicants, therefore, respectfully submit that the combined teachings of Zeitoun et al., Seminoff et al., Staniforth, and Oshalack et al. also fail to establish the *prima facie* obviousness of claims 19 and 20, and Applicants respectfully request that the rejection of claims 19 and 20 as unpatentable over the combination of Zeitoun et al., Seminoff et al., Staniforth, and Oshalack et al. be withdrawn.

ENTRY OF AMENDMENTS

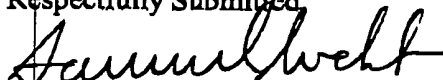
Applicants respectfully submit that the cancellation of claims 21 through 36 may be properly entered by the Examiner under 37 C.F.R. § 1.116. Applicants, therefore, respectfully request entry of the amendments set forth herein.

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CONCLUSION

Claims 19 and 20 are believed to be in condition for allowance, and a notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully Submitted



Samuel E. Webb

Registration No.: 44,394

ALZA Corporation

Patent Department, M10-3

P.O. Box 7210

Mountain View, CA 94039

(960) 564-5106

SEW/eg

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